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**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF UTAH**

THE SCO GROUP, INC.,

Plaintiff/Counterclaim-Defendant,

v.

INTERNATIONAL BUSINESS MACHINES
CORPORATION,

Defendant/Counterclaim-Plaintiff.

**EX PARTE MOTION FOR LEAVE TO
FILE OVERLENGTH MEMORANDUM
IN SUPPORT OF IBM'S MOTION FOR
SUMMARY JUDGMENT ON ITS CLAIM
FOR DECLARATORY JUDGMENT OF
NON-INFRINGEMENT (IBM'S TENTH
COUNTERCLAIM)**

Civil No. 2:03CV-0294 DAK

Honorable Dale A. Kimball

Magistrate Judge Brooke C. Wells

Pursuant to DUCivR 7-1(e), Defendant/Counterclaim-Plaintiff International Business Machines Corporation (“IBM”) respectfully submits this Ex Parte Motion for Leave to File Overlength Memorandum in Support of IBM’s Motion for Summary Judgment on its Claim for Declaratory Judgment of Non-Infringement (IBM’s Tenth Counterclaim) consisting of approximately twenty-six pages of argument, exclusive of face sheet, table of contents and authorities, preliminary and fact statements, and appendices and exhibits.

In its Memorandum in Support of Motion for Summary Judgment, IBM demonstrates that Plaintiff/Counterclaim Defendant The SCO Group, Inc.’s (“SCO”) claims of infringement fail as a matter of law for at least five independent reasons, any one of which justifies the entry of summary judgment in favor of IBM.

In order to fully address these important issues in its memorandum, IBM required approximately one additional page of argument beyond the twenty-five pages allotted by DUCivR 56. Accordingly, IBM respectfully requests that it be granted leave to file a Memorandum in Support of IBM’s Motion for Summary Judgment on its Claim for Declaratory Judgment of Non-Infringement (IBM’s Tenth Counterclaim) consisting of approximately twenty-six pages of argument.

DATED this 25th day of September, 2006.

SNELL & WILMER L.L.P.

/s/ Amy F. Sorenson

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CERTIFICATE OF SERVICE

I hereby certify that on the 25th day of September, 2006, a true and correct copy of the foregoing was electronically filed with the Clerk of the Court and delivered by CM/ECF system to the following:

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